

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

Case No. 13-45524

RODNEY DONNELL HOLMES, and  
AMANDA SHERICE BICKERS-HOLMES,

Chapter 13

Judge Thomas J. Tucker

Debtors.

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**ORDER DENYING CONSUMER PORTFOLIO SERVICE, INC.'S  
REQUEST FOR STAY RELIEF**

On August 2, 2017, the Court entered an order entitled "Order Modifying Automatic Stay" (Docket # 114, the August 2 Order"), which provided in relevant part:

IT IS HEREBY ORDERED that commencing on August 17, 2017, Rodney Donnell Holmes and Amanda Sherice Bickers-Holmes (the "Debtors") shall make all regular monthly installment payments in the amount of \$449.95 to Consumer Portfolio Services, Inc. in a full and timely manner as required under the Retail Installment Sale Contract dated March 18, 2016 (the "Security Agreement") in connection with the 2012 Buick Lacrosse automobile/VIN 1G4GD5ER5CF374978 (the "Vehicle").

IT IS HEREBY FURTHER ORDERED that Debtor shall cure the arrearage of \$469.60 plus legal fees of \$521.00 owed to Consumer Portfolio Services, Inc. under the Security Agreement through six (6) consecutive monthly installments in the amount of \$165.10 each, commencing on August 17, 2017 and on the seventeenth (17<sup>th</sup>) day of each successive month thereafter.

IT IS HEREBY FURTHER ORDERED that if any other payment due under this Order is not timely received and after twenty-one (21) days written notice of default to Debtors and their attorney by **regular and electronic mail** at the . . . addresses listed on Debtors' bankruptcy petition and if such default is not cured within such twenty-one (21) day period, Consumer Portfolio Services, Inc. shall be entitled to the entry of an order granting relief from the automatic stay and waiver of the provisions of BR 4001 (a)(3) with respect to the Vehicle without further notice or the necessity of a hearing and based solely upon the filing of an affidavit

and appropriate order with the Court.

(Emphasis added). On January 10, 2018, Consumer Portfolio Services, Inc. (“CPS”) filed a document entitled “Affidavit of Default Under Order Modifying Automatic Stay” (Docket # 117, the “Affidavit”), and submitted a proposed order granting CPS relief from the automatic stay.

The Court will not enter the stay-relief order, but instead will deny CPS’s request for stay relief at this time and on the present record. This is because the August 2 Order requires that the 21-day notice of default must be sent to both the Debtor’s attorney and to the Debtors, *each by both regular mail and electronic mail*. But the affidavit of default does not say or show that this was done, the stay relief order should not be entered. There is no indication, for example, that the notice of default was e-mailed to either of the Debtors.

Accordingly,

IT IS ORDERED that CPS’s request for relief from the automatic stay (Docket # 117) is denied.

Signed on January 10, 2018



/s/ Thomas J. Tucker

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Thomas J. Tucker  
United States Bankruptcy Judge